

Statement of Policy about Exercise of Discretionary Functions

Updated November 2023



The Pension Fund and scheme employers must set out their respective policies on discretions.

Under the LGPS regulations, administering authorities have discretions in relation to their administration of the scheme. These are referred to as administering authority discretions.

The Statement of Discretions for the West Sussex LGPS are set out below. These are applied to all employers and all members regardless of who their employer is.

Individual employers also have a Statement of Discretions relating to early access to benefits or to improving the benefits received by members. Members can request a copy from their employer direct.

This statement will be reviewed at least every four years and will be updated to reflect any substantive changes in the interim. The last formal review was at the Pension Committee meeting in [November 2023](#).

Key to regulations:

Prefix	Regulation
R	Local Government Pension Scheme Regulations 2013
TP	Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014
A	Local Government Pension Scheme (Administration) Regulations 2008
B	Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007
T	Local Government Pension Scheme (Transitional Provisions) Regulations 2008
L	Local Government Pension Scheme Regulations 1997 (as amended)
None	Local Government Pension Scheme Regulations 1995
IN	Local Government Pension Scheme Regulations 2016 (Management and Investment of Funds)
DC	Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2000
RPS	The Registered Pension Schemes (Modification of Scheme Rules) Regulations 2011

Section 1 – Pension benefits and administration

Additional Pension Contributions and Shared Cost Additional Pension Contributions (APC/SCAPC)

Discretion	Ref	Delegation or Policy
Whether to turn down a request to pay an APC/SCAPC over a period of time where it would be impractical to allow such a request (e.g. where the sum being paid is very small and could be paid as a single payment)	R16(1)	The Administering Authority has not set a minimum payment threshold.
<p>Whether to require a satisfactory medical before agreeing to an application to pay an APC / SCAPC</p> <p>Whether to turn down an application to pay an APC / SCAPC if not satisfied that the member is in reasonably good health.</p>	R16(10) R16(10)	<p>A medical report is required where a member is applying to pay an APC / SCAPC to increase their retirement benefits.</p> <p>The report should detail whether in the practitioner’s opinion the member is in reasonably good health to undertake APC/SCAPC’s. If this is not satisfied, then the application to pay an APC/SCAPC will be turned down.</p> <p>No medical report is required where a member is applying to pay an APC / SCAPC to buy back missing pension that is due to a period of unpaid authorised leave of absence, unpaid child related leave or industrial action.</p>

Transfers and aggregation of benefits

Discretion	Ref	Delegation or Policy
Allow transfer of non-club pension rights into the Fund. Note: There is no discretion in relation to Club schemes. If the Club rules apply the transfer in must be accepted.	R100(7)	The Administering Authority allows non-Club transfers into the scheme.
Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS.	R100(6)	An extension beyond 12 months to accept a transfer value will be considered by the Director of Finance and Support Services in exceptional circumstances where it can be evidenced that the member has been prevented from meeting the 12-month time limit.
Decide, in the absence of an election from the member within 12 months of ceasing a concurrent employment, which ongoing employment benefits from the concurrent employment which has ceased should be aggregated (where there is more than one ongoing employment).	TP10(9)	The Administering Authority will aggregate with the earliest remaining employment.

Retiring Members

Discretion	Ref	Delegation or Policy
Whether to extend the time limits within which a member must give notice of the wish to draw benefits before normal pension age or upon flexible retirement.	R32(7)	The Director of Finance and Support Services will only extend the time limit in exceptional circumstances which are reasonably considered to have prevented the individual from giving notice.
Extend time period for capitalisation of added years contract.	TP15(1)(c) & TSch1 & L83(5)	The Administering Authority will not extend the time limit for applications to pay off added years contracts.

Commutation of benefits

Discretion	Ref	Delegation or Policy
Decide whether to commute small pension	R34(1) R39 (1) (b) & (c) B39 T14(3) L49 & L156	The commutation of eligible small pension pots is permitted.

Internal Dispute Resolution Procedure (IDRP)

Discretion	Ref	Delegation or Policy
Decide procedure to be followed when exercising its IDRP functions and decide the way those functions are to be exercised.	R76(4)	The Director of Finance and Support Services and Director of Law and Assurance have jointly determined and documented a compliant Internal Dispute Resolution Procedure (IDRP) relating to disputes raised with the Administering Authority (i.e., where an employer fails to consider a dispute at Stage 1 or an individual invokes a Stage 2 appeal).
Whether admin authority should appeal against employer decision (or lack of a decision).	R79(2) L105(1)	The Director of Finance and Support Services jointly with Director of Law and Assurance will take the decision whether to appeal in line with its Internal Dispute Resolution Procedure (IDRP).

Death Benefits

Every member of the Pension Scheme can complete an expression of wish form to indicate to whom they would like any death grant due to be paid (the "Expression of Wish").

The presumption should be that a clear and unequivocal statement of wish in relation to the allocation of the death grant from the pension should be respected by the administering authority.

While the administering authority will seek to establish from records and available evidence the intentions of the deceased member and may consider the views of other relevant parties in reaching its decision, it is not bound by anyone else's view and the sole responsibility of the decision lies with the administering authority.

Evidence will be considered, and the decision maker will take account of all relevant matters and disregard any irrelevant matters.

In reaching a decision the following principles will be followed by the Administering Authority:

- Ensuring all the relevant information is gathered – in addition to an expression of wish, it may be appropriate for it to contact the next of kin or personal representatives and/or family and friends of the deceased to obtain relevant documentation and information.
- Identifying all possible beneficiaries – using the information gathered above.
- Considering all relevant factors – using its discretion as to which factors are relevant and which are not, along with the weighting being given to any relevant factors. Factors can include but are not limited to:
 - When the expression of wish was made
 - Whether the family and dependants' circumstances have changed since the expression
 - Whether there are individuals who are, at the time of death, financially dependent upon the pensioner
 - Whether a will or other formal statement overrides or contradicts the pensioner's expression of wish
 - Whether a grant of probate has been made and an executor of the estate appointed who has authority to deal with the allocation of a payment from the pension scheme.
 - The content of any representations made by relatives or other connected persons.

Discretion	Ref	Delegation or Policy
Decide to whom any AVC/SCAVC monies (including life assurance monies) are to be paid on death of the member	R17(12)	The Director of Finance and Support Services ¹ will decide each case on its merits. In exercising their absolute discretion, the Director of Finance and Support Services ² will seek to make payment in accordance with the deceased's valid Expression of Wish. Where no such valid expression of wish exists, or it is deemed any such expression should not be complied with, the Administering Authority will seek to identify appropriate recipients and then decide to whom any payments should be made.
Whether, where a person (other than an eligible child) is incapable of managing their affairs, to pay the whole or part of that person's pension benefits to another person for their benefit.	R83 A52A	The Director of Finance and Support Services jointly with Director of Law and Assurance will decide each case on its merits, after considering the available evidence relating to the situation.
Where member to whom B10 applies (use of average of 3 years pay for final pay purposes) dies before making an election, whether to make that election on behalf of the deceased member.	TP3(6), TP4(6)(c), TP8(4), TP10(2)(a), TP17(2)(b) TSch 1 B10(2)	The pay figure that would yield the highest overall level of benefits for beneficiaries will be applied.
Make election on behalf of deceased member with a certificate of protection of pension benefits i.e., determine best pay figure to use in the benefit calculations.	L23(9)	The pay figure that would yield the highest overall level of benefits for beneficiaries will be applied.
Decide to treat child as being in continuous education or vocational training despite a break.	RSch 1 & TP17(9) B39 T14(3)	The Administering Authority will treat a child as being in continuous education or vocational training despite a break.

¹ jointly with Director of Law and Assurance

² jointly with Director of Law and Assurance

Discretion	Ref	Delegation or Policy
Decide evidence required to determine financial dependence of cohabiting partner on scheme member or financial interdependence of cohabiting partner and scheme member.	RSch 1 & TP17(9)(b) B25	The Director of Finance and Support Services will decide the evidence required to determine financial dependence, based on guidance and best practice. Examples of evidence include but are not limited to council tax bills, bank or credit card statements and main utility bills, mortgage statements or property rental agreement and / or copies of joint life assurance policies or loan/credit agreements taken out in both names. This list is not exhaustive, and any documentation that is sent that confirms financial dependency covering the two years period prior to death will be considered.
Apportionment of children's pension amongst eligible children (children of councillor members and children of post 31 March 1998 / pre 1 April 2008 leavers).	L47(1) G11(1)	The Administering Authority will apportion children's pension equally amongst eligible children.
Whether to pay spouse's pensions for life for pre 1 April 1998 / pre 1 April 1998 deferred members who die on or after 1 April 1998 (rather than ceasing during any period of remarriage or co-habitation).	F7	The Administering Authority will pay spouse's LGPS pensions for life.
Select appropriate final pay period for deceased non-councillor member (leavers post 31.3.98. / pre 1.4.08.).	L22(7)	The pay figure that would yield the highest overall level of benefits for beneficiaries will be applied.

General Administration

Discretion	Ref	Delegation or Policy
Whether to have a written pensions administration strategy and if so, the matters it should include.	R59(1) and (2)	The Administering Authority has an Administration Policy which contains the required information. The Administration Strategy is agreed by the Director of Finance and Support Services jointly with the Director of Law and Assurance ³ .
Pension account may be kept in such form as considered appropriate.	R22(3)(c)	The Administering Authority will decide the form in which pension accounts are kept based on any published guidance, best practice and in an efficient manner.
Outstanding employee contributions can be recovered as a simple debt or by deduction from benefits.	A45(3) L89(3)	Outstanding employee contributions will usually be recovered as a deduction from benefits where approved by the Director of Finance and Support Services.
Date to which benefits shown on annual benefit statement are calculated.	R89(5) L106A(5)	The Administering Authority uses 31 March each year.
Discharge Pension Credit liability (in respect of Pension Sharing Orders for councillors and pre 1.4.08. Pension Sharing Orders for non-councillor members).	L147	The Administering Authority will discharge its liability by granting pension credit rights on the person entitled to the pension credit.
Decide policy on abatement of pensions following re-employment, including the pre-April 2014 element for post 2014 leavers.	TP3(13) & A70(1)* & A71(4)(c) T12 L109 L110(4)b	The Administering Authority will not abate pension for any re-employment starting after 4 March 2019. Pensions already abated at this date will continue to be abated until the re-employment ends.
To determine the amount of an exit credit, which may be zero.	R64 (ZZAB)	The Administering Authority will determine the amount of any exit credit to be paid in line with the factors set out in the regulations, in accordance with the policy in the Funding Strategy Statement.
Agreement to bulk transfer payments.	R98(1)(b)	The Funding Strategy Statement sets out the approach to Bulk Transfers.

³ Constitution reference 261B

Discretion	Ref	Delegation or Policy
Maintain a communication policy which contains the information set out in the regulations.	R61	The Administering Authority has a Communications Policy which contains the required information. The Communications Policy is agreed by the Director of Finance and Support Services jointly with the Director of Law and Assurance ⁴ .

General Administration – Voluntary Scheme Pays Policy

Discretion	Ref	Delegation or Policy
To decide whether it is legally able to offer voluntary scheme pays and, if so, to decide the circumstances (if any) upon which it would do so.	RPS 2	<p>The Director of Finance and Support Services will consider a request for Voluntary Scheme Pays where each of the conditions below are met:</p> <ul style="list-style-type: none"> • the member is subject to the tapered annual allowance • the member exceeds the standard annual allowance • a member is not able to utilise Mandatory Scheme pays • their AA calculation relates solely to the West Sussex LGPS • where the AA charge is above £2,000 • the Fund is notified by the end of November following the tax year. <p>OR</p> <ul style="list-style-type: none"> • In exceptional circumstances where the member was not provided with the necessary information and has missed the Mandatory Scheme Pays deadline due to administrative difficulties caused by the Administering Authority, and • following identification of the administrative error and the Fund notifying the member of the availability of Voluntary Scheme Pays, the member notifies the Fund within a reasonable time of their request to use Voluntary Scheme Pays.

⁴ Constitution reference 261B

Section 2 – Employing Authorities

Admissions

Delegation	Ref	Policy
Whether to agree to an admission agreement with a Care Trust, NHS Scheme employing authority, Care Quality Commission or any other body applying to be an admission body.	(R4(2)(b), R5(5) & RSch 2, Part 3, para 1)	Where approved by the Director of Finance and Support Services, the Administering Authority will enter into an admission agreement where requirements are met.
Whether to agree to that an admission agreement may take effect on a date before the date on which it is executed.	RSch2, Part 3, para 14	The Administering Authority requires employers to notify it of any outsourcing as soon as possible and complete an admission agreement with sufficient time before the contract start date. However, each case will be decided on its merits, with advice from the Fund Actuary.
Whether to set up a separate admission agreement fund.	R54(1) .	The Administering Authority does not currently operate any separate admission agreement funds. This would be determined by the Pensions Committee.

Administration matters

Delegation	Ref	Policy
Whether to suspend (by way of issuing a suspension notice) for up to 3 years an employer's obligation to pay an exit payment where the employer is again likely to have active members within the specified period of suspension.	R64(2A)	The Funding Strategy Statement sets out the circumstances when issuing a Suspension Notice to defer an exit debt will be considered and the approach taken by the Administering Authority.
Whether to obtain revision of employer's contribution rate if there are circumstances which make it likely a Scheme employer will become an exiting employer.	R64(4) R64(2ZA) R64(2A)	The Funding Strategy Statement sets out the approach to "Adjusted Employer Contribution rates". This includes where it is likely that the employer will become an exiting employer.
Decide the frequency of payments to be made over to the Fund by employers and whether to make an administration charge.	R69(1) L81(1) L12(5)	Employer contributions are payable monthly and due by 19 th of the month (22 nd if electronic) following deduction (except for employers who make advance payment of their contributions on 1 April). An allowance for administration expenses is included in employer contribution rates. Other charges are set out in the Administration Strategy.
Decide the form and frequency of information to accompany payments to the Fund.	R69(4) L81(5)	Employers are required to complete a monthly remittance form with their payment showing a breakdown of contributions.
Whether to issue employer with notice to recover additional costs incurred as a result of the employer's level of performance.	R70 and TP22(2)	The Administering Authority will work with employers to improve performance. However, if additional and disproportionate resources are required because of an employer's poor performance, the cost of the additional resources may be re-charged, on approval by the Director of Finance and Support Services.
Whether to charge interest on payments made by employers which are overdue.	R71(1)	The Administering Authority may charge interest on such payments.
Specify information to be supplied by employers to enable administering authority to discharge its functions.	R80(1)(b) & TP22(1)	The Administering Authority provides employers with full guidance as to the information they must supply within the Administration Strategy, Employer Manual, and other related communication.

Delegation	Ref	Policy
<p>Agree to pay annual compensation on behalf of employer and recharge payments to employer.</p> <p>Note: This relates to historic arrangements only.</p>	DC31(2)	The Administering Authority will pay legacy compensation on behalf of an employer (Added Years), subject to acceptable recharge arrangements.
Timing of pension increase payments by employers to fund (pre 1.4.08. leavers).	L91(6)	Employer payments are paid monthly on account, with an annual balancing charge after the year end.
Approve medical advisers used by employers (for ill health benefits).	R36(3) L97(10)	All appointed medical advisers must meet the qualifying requirements set out in the Regulations and must not previously have had any involvement in the case being considered.
Whether to require any strain on Fund costs to be paid 'up front' by employing authority following payment of benefits under flexible retirement; redundancy / business efficiency; the waiver (in whole or in part) of any actuarial reduction that would have otherwise been applied to benefits which a member voluntarily draws before normal pension age; release of benefits before age 60.	R68(2) TPSch 2, para 2(3) L80(5) B30 or B30A	The Funding Strategy Statement sets out the approach to "upfront payment of strain charges" including the requirement that all employers pay an upfront additional contribution (strain) where a member retires with an unreduced pension before reaching their earliest retirement age. An employer can make a request to the Director of Finance and Support Services to consider any exceptions (such as spreading the payment over a set period).
Decide on Funding Strategy for inclusion in funding strategy statement.	R58	The Funding Strategy is determined by the Pensions Committee following advice and consultation with employers. The Funding Strategy is prepared, maintained, and published in accordance with the Regulations.

Cessations

Delegation	Ref	Policy
<p>Whether to terminate an admission agreement in the event of:</p> <ul style="list-style-type: none"> - Insolvency, winding up or liquidation of the body - Breach by that body of its obligations under the admission agreement <p>Failure by that body to pay over sums due to the Fund within a reasonable period of being requested to do so.</p>	<p>(RSch 2, Part 3, para 9(d))</p>	<p>Where approved by the Director of Finance and Support Services, the Administering Authority will consider and determine the termination of any an admission agreement in line with the Admission Agreement terms and Funding Strategy Statement.</p>
<p>Whether to extend the period beyond 6 months from the date an Employer ceases to be a Scheme Employer, by which to pay an exit credit.</p>	<p>R64 (2ZA)</p>	<p>This is set out in the Funding Strategy Statement.</p>
<p>If an Employer has become defunct, the administering authority is required to make decisions on ill health and early payment of benefits. Including whether to waive, in whole or in part, actuarial reduction on benefits paid on flexible retirement or on benefits which a member voluntarily draws before normal pension age.</p>	<p>R30(8) TP12(6) R38(3) R38(6) B30(2) B30(5) B30A(3) B30A(5) B31(4) B31(7) TPSch 2, para 1(2) & 1(1)(c) TP3(1), TPSch 2 para 2(1)</p>	<p>The Administering Authority will exercise this discretion in accordance with, and to the extent of (if any) the policy and practice of the former employer.</p> <p>If no policy exists, the Administering Authority will not waive any reduction or otherwise agree to a retirement which would incur an employer strain charge.</p> <p>Where required, the Director of Finance and Support Services will assess ill health retirement decisions, including the use of 2008 certificates, on a case-by-case basis.</p>